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OF 237  
23/9

In the High Court of Madhya Pradesh  
At Jabalpur.

Misc. Petition No. 3870 1993

D-B-Civil

Managing Director,  
Steel Authority Of India Ltd.,  
Bhilai Steel Plant,  
Bhilai Distt. Durg (MP) ... Petitioner.

Vrs.

1) Gurudasram Sharma  
S/O Late Pandit Mangat Ram  
Sharma, Fire Engine Driver  
-cum-Pump Operator, Fire  
Brigade Deptt, Bhilai Steel  
Plant, Bhilai (MP)

Qrt.No.13/DCA-1 Type,  
Street No.1, Sector-4,  
Bhilai Nagar.

2) Industrial Court,  
Raipur Bench, Krishna Sadan,  
16, HIG, Shankar Nagar,  
Raipur (MP)

3) Labour Court,  
Durg (MP) ... Respondents.

Petition Under Article -226 /227 of the  
Constitution of India.

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 3870 of 1993

Managing Director, Steel Authority of India Ltd.

-Versus-

Gurudasram Sharma & others

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Shri Gautam Bhaduri, Advocate for the petitioner.

Shri H. B. Agarwal, Senior Advocate with Miss Sangeeta Mishra,  
Advocate for the Respondent No. 1.

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ORDER  
( 19.7.2005)

By Justice Satish K. Agnihotri.

1. The Respondent No.1 (Gurudasram Sharma) was working as Sr. Fire Engine Driver-cum- Pump Operator in the Fire Brigade Department of the petitioner/Bhilai Steel Plant, Steel Authority of India Ltd. It is alleged that the Respondent No.1 refused to carry out the order of his superior to wash turn out vehicle No. 9179, on 7.4.1986. It is admitted by both the parties that the duty and job description of the Respondent No.1 provides for washing of turn out vehicle.
2. The Respondent No.1 was charge sheeted vide order dated 28.5.1986 (Annexure P/2) for the misconduct of not obeying the orders of his senior to wash turn out vehicle No. 9179. In the domestic enquiry the charges were found proved. Thus, pursuant to the domestic enquiry report, the Respondent No.1 was reverted back to the lower post of Fire Engine Driver-cum Pump Operator on the minimum pay scale of Rs. 645-26-827-28-1023 for a period of two years with cumulative effect, w.e.f. the date of issuance of the order i.e. 8.1.1987 (Annexure P/3).
3. Being aggrieved by the order of punishment/penalty, the Respondent No.1 filed an application under Section 31(3) read with

Section 61 of the Madhya Pradesh Industrial Relations Act, 1960 praying inter alia that the punishment/penalty is highly disproportionate and shocking to the alleged misconduct.

4. The petitioner filed the written statement submitting that the misconduct has been proved in the enquiry and the Respondent No.1 has admitted that the washing of turn out vehicle was his responsibility; as such the penalty/punishment of reverting back to the lower post and minimum pay scale was rightly imposed. The Labour Court by its order dated 1.8.1990 while dismissing the application of the Respondent No.1 held that the Respondent No.1 has committed misconduct by not obeying the order of the senior officer to wash turn out vehicle No. 9179. The Labour Court did not consider and pass any order on the question of justification of the imposed punishment/penalty.
5. Being aggrieved by the order passed by the Labour Court the Respondent No.1 preferred an appeal before the Industrial Court and the Industrial Court vide its order dated 17.3.1993 after having heard both the parties and perusing the records came to the conclusion that the Labour Court has not considered the Issue No.3 specifically dealing with the quantum of punishment/penalty, as to whether the punishment/penalty imposed was proportionate or the punishment/penalty was excessive, disproportionate and shocking to the alleged misconduct. In that view, the Industrial Court remanded back the matter to the Labour Court for deciding the Issue No.3 as to whether the punishment/penalty imposed was excessive and disproportionate.
6. The present petition is filed under Article 226-227 of the Constitution of India by the petitioner Bhilai Steel Plant challenging the order dated 17.3.1993 passed by the Industrial Court thereby

remanding back the matter to the Labour Court for fresh disposal on the issue of imposition of punishment as to whether the same was excessive and/or disproportionate.

7. Learned counsel appearing for the petitioner submits that it was not necessary for the Labour Court to decide the issue of punishment/penalty as the punishment is prescribed in the Standing Orders itself. Learned counsel further submits that once the misconduct has been found proved it was not necessary to go into the proportionality of the punishment/penalty imposed as the authorities have discretion to impose punishment/penalty that includes the reduction to a lower grade or post to a lower time scale. The petitioner is not in a position to explain as to whether the Labour Court has considered the application of the Respondent No.1 in respect of the punishment/penalty, as according to the Respondent No.1 the punishment was disproportionate, excessive and shocking.
8. Mr. H. B. Agarwal learned senior counsel appearing for the Respondent No.1, on the contrary makes his submission in support of the order passed by the Industrial Court.
9. After having considered the arguments of both the counsels and having perused the records of the case, it is found that the Labour Court has not considered the question of punishment/penalty as to whether it was proper, excessive or disproportionate to the alleged misconduct. The question was specifically framed as Issue No.3 and it has not been considered and decided by the Labour Court.
10. The contention of the petitioner is not acceptable as the punishment/penalty for misconduct provides major punishment, and the minor punishments and punishments are in the following terms:-

Minor punishments:-

- a) Censure.
- b) Fine.
- c) Suspension without wages for a period not exceeding 4 days.

Major punishments:-

- a) Stoppage of increment.
  - b) Reduction to a Lower grade or post or Lower stage in a time scale.
  - c) Removal from services which does not disqualify for future employment.
  - d) Dismissal from service which disqualify for future employment.
11. In the facts and circumstances as stated above, the order of the Industrial Court is perfectly legal and proper. The writ petition is accordingly dismissed. There shall be no orders as to costs.
12. Keeping in view the long pendency of the case, the Labour Court is directed to decide the matter within a period of three months from the date of the receipt of the order after considering the submissions of both the parties.

Sd/-  
Satish K. Agnihotri  
Judge